



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 6, 1998

Mr. Robert E. Hager  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR98-2633

Dear Mr. Hager:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119395.

The City of Coppell (the "city") received a request for the following:

- I. I request that complaint which was handed to mayor and municipal council on television on 28 July 1998.
- II. I request all documentation of the investigation of that complaint of 28 July 1998 by mayor, municipal council, Jim Witt, Clay Phillips, Peter Smith and Jason Marshall, which they are obligated by governmental and criminal statutes to investigate.
- III. I request all governmental records and public information which were released to me by mayor, municipal council, Jim Witt, Clay Phillips, Peter Smith and Jason Marshall in response to that complaint of 28 July 1998.

You inform us that the request for information was sent via facsimile to the mayor at his home and business addresses. You claim that the requirements of the Open Records Act are not triggered by requests sent to the private, non-business facsimiles of elected officials.

Section 552.301(a) of the Government Code provides:

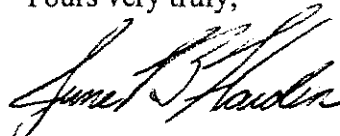
A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers

to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10<sup>th</sup> business day after the date of receiving the written request. For purposes of this subchapter, a written request includes a request made in writing that is sent to the officer for public information, or the person designated by that officer, by electronic mail or facsimile transmission.

Thus, a governmental body's duty to release information to the public or request a ruling from the attorney general arises only after the governmental body is presented with a written request for information. *See* Open Records Decision No. 304 (1982). We do not believe in this instance that the mayor was acting in his official capacity when he received the facsimiles at his private addresses. Therefore, based on the assumption that the city maintains an official address and that no official city business is conducted from the mayor's private addresses, we conclude that the city did not receive a valid open records request and need not respond at this time. *See generally* Gov't Code §§ 552.021, 221(b). We note that in the future city officials should direct requestors to the proper city offices.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 119395

cc: Mr. Doyle Calfey  
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Irving, Texas 75061